

ARTICLE APPEARED  
OK PAGE A-19

NEW YORK TIMES  
14 MARCH 1982

## AGENCY DEMANDS DOCUMENTS BACK

Author Says He Used Material  
in Book Detailing Incidents  
of Illegal Surveillance

By JUDITH MILLER

Special to The New York Times

WASHINGTON, March 13 — The Justice Department is demanding the return of documents about secret electronic surveillance that were made public under the Carter Administration, contending that their disclosure would result in "identifiable damage to the national security."

Gerald A. Schroeder, adviser to the Justice Department's Office of Intelligence Policy and Review, has insisted that V. James Bamford, a writer, return 250 pages obtained two years ago in response to requests made under the Freedom of Information Act.

"At a meeting last July and in subsequent letters to Mr. Bamford, Mr. Schroeder said the information had been released "in error" by Robert L. Keuch, Deputy Assistant Attorney General in the Carter Administration, and was, therefore, still considered secret by the Government. Mr. Bamford has declined to return the documents. Letters from Mr. Schroeder dated Sept. 22 and Nov. 27 suggest that Mr. Bamford might be subject to Federal legal action if he proceeds to publish the information as planned.

Mr. Bamford used the disputed documents as background for a book, entitled "Puzzle Palace: A Report on America's most Secret Agency." The book, on the history of the National Security Agency, the unit that breaks codes and monitors international communications, is scheduled for publication this fall by Houghton Mifflin Company.

### Information on Illegal Spying

The documents in question concern a Justice Department investigation in 1975 of illegal spying by the National Security Agency and the Central Intelligence Agency.

Mr. Bamford's book details, among other things, the security agency's "Minaret" operation, in which anti-Vietnam war protesters such as Jane Fonda, the actress, the Rev. Dr. Martin Luther King Jr., and Dr. Benjamin Spock were placed under surveillance.

Specialists on Government information said the Administration's insistence that the documents be returned was extremely unusual. Morton H.

Halperin, director of the Center for National Security Studies, said there was "no legal basis" for the Government request, adding that the demand appeared to violate the provisions of the executive order controlling the public release of classified information.

The Administration has prepared a revised executive order, which President Reagan has not yet signed, that would seek to give the Government authority to reclassify information that had been declassified and released. In testimony before a House subcommittee last week, Mr. Halperin and other legal experts denounced the proposal as an "unconstitutional violation of First Amendment rights."

### London Reporter Used Documents

In an interview Thursday, Mr. Bamford said he would refuse to return the material not only "as a matter of principle," but also because some of the documents were soon to be published in Britain. Mr. Bamford said he had given copies of the material to Linda Melvern, a reporter for The Sunday Times of London, more than a year before the Justice Department first demanded their return.

In an article to be published Sunday, Miss Melvern wrote that the Bamford documents showed that Britain's electronic spying agency had assisted the National Security Agency from 1967 to 1973 in monitoring international telex traffic to gather information against Americans protesting the Vietnam war.

Mr. Bamford said he obtained the documents in July 1979. On July 23, 1981, Mr. Schroeder told him at a meeting in Washington that the documents had been improperly declassified and asked him to return them.

Two months after that meeting, Mr. Bamford received a letter from Mr. Schroeder saying that the material had been released improperly because the Justice Department had failed to circulate the documents to the security agency before they were declassified.

### 'Duty and Obligation'

"Accordingly, you are currently in possession of classified information that requires protection against unauthorized disclosure," Mr. Schroeder wrote. "It is, therefore, your duty and obligation as a United States citizen to return this information to the Department of Justice."

He added that the documents would be returned to Mr. Bamford after sensitive material had been deleted.

"I am aware of your opinion that none of the information is sensitive," the letter continued, "but I must emphasize that under the law that determination is not yours to make."

In a letter written to Mr. Schroeder in October, Mark H. Lynch, Mr. Bamford's attorney, argued that Mr. Keuch had been "the most experienced and knowledgeable person in the department with respect to intelligence issues" and that Mr. Keuch had made a "conscious decision" not to consult with the security agency before he released the documents.

In addition, Mr. Lynch argued that the Freedom of Information Act contains no provision that permits the Government to reclaim documents it has declassified.

In a letter to Mr. Lynch, dated Nov. 27, Mr. Schroeder referred to Mr. Bamford's upcoming book and wrote: "Questions of legal rights and remedies notwithstanding, this damage can never be repaired, whether or not the Government ultimately seeks or obtains any post-publication judicial remedy."